

Decision \_\_\_\_\_

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking to Adopt  
Biomethane Standards and Requirements,  
Pipeline Open Access Rules, and Related  
Enforcement Provisions.

Rulemaking 13-02-008  
(Filed February 13, 2013)

**DECISION GRANTING COMPENSATION TO THE GREEN POWER  
INSTITUTE FOR SUBSTANTIAL CONTRIBUTION TO DECISION 15-06-029**

Intervenor: The Green Power Institute (Green Power/GPI)	For contribution to Decisions (D.) D.15-06-029 and D.15-06-010 <sup>1</sup>
Claimed: \$17,843.00	Awarded: \$13,382.85 (reduced 25%)
Assigned Commissioner: Carla J. Peterman	Assigned Administrative Law Judge (ALJ): John S. Wong

**PART I: PROCEDURAL ISSUES**

<b>A. Brief description of Decision:</b>	<p><b>D.15-06-029:</b> This Decision determines how the costs of compliance with D.14-01-034 will be allocated, and creates a program to promote the deployment of biomethane in California.</p> <p><b>D.15-06-010:</b> This Decision awards compensation to the Green Power Institute for contribution to D.14-01-034.</p>
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<sup>1</sup> The California Public Utilities Commission (Commission) does not authorize compensation for contribution to D.15-06-010.

**B. Intervenor must satisfy intervenor compensation requirements set forth in Public Utilities (Pub. Util.) Code §§ 1801-1812:**

	<b>Intervenor</b>	<b>CPUC Verified</b>
<b>Timely filing of notice of intent to claim compensation (NOI) (§ 1804(a)):</b>		
1. Date of Prehearing Conference (PHC):	March 27, 2013	Verified.
2. Other specified date for NOI:		
3. Date NOI filed:	April 24, 2013	Verified.
4. Was the NOI timely filed?		Yes.
<b>Showing of customer or customer-related status (§ 1802(b)):</b>		
5. Based on ALJ ruling issued in proceeding number:	R.13-02-008	Verified.
6. Date of ALJ ruling:	June 4, 2013	Verified.
7. Based on another Commission determination (specify):		
8. Has the Intervenor demonstrated customer or customer-related status?		Yes.
<b>Showing of "significant financial hardship" (§ 1802(g)):</b>		
9. Based on ALJ ruling issued in proceeding number:	R.13-02-008	Verified.
10. Date of ALJ ruling:	June 4, 2013	Verified.
11. Based on another Commission determination (specify):		
12. Has the Intervenor demonstrated significant financial hardship?		Yes.
<b>Timely request for compensation (§ 1804(c)):</b>		
13. Identify Final Decision:	D.15-06-029	Verified.
14. Date of issuance of Final Order or Decision:	June 16, 2015	Verified.
15. File date of compensation request:	July 27, 2015	Verified.
16. Was the request for compensation timely?		Yes.

**PART II: SUBSTANTIAL CONTRIBUTION****A. Did the Intervenor substantially contribute to the final decision**  
(see § 1802(i), § 1803(a), and D.98-04-059).

Intervenor's Claimed Contribution(s)	Specific References to Intervenor's Claimed Contribution(s)	CPUC Discussion
<b>D.15-06-029: Allocates costs of compliance with D.14-01-034</b>	(Please note that Attachment 2 includes a list of Green Power Institute (GPI) Pleadings relevant to this Claim.)	
<p><b>1. Policy Imperative to Promote Biomethane Development</b></p> <p>Decision D.15-06-029 creates a program to promote the development of the biomethane industry in California by providing cost sharing for the cost of interconnection from biomethane suppliers to the common-carrier pipeline system.</p> <p>The GPI made a substantial contribution to D.15-06-029 by characterizing and analyzing the imperative for devising policies and programs conducive to the development of the biomethane industry in California. The discussion in the Decision makes it clear that the California Public Utilities Commission (Commission) originally was disinclined to create a promotional program for biomethane, but was convinced to do so by the section of AB 1900 instructing the Commission to promote biomethane, and by the evidence presented by the GPI and others demonstrating the economic situation and needs</p>	<p>GPI's <i>Comments on Phase 2 Cost Issues</i>, 5/23/14.</p> <p>Our Comments present a detailed rationale for the need to provide economic assistance to the development of the biomethane industry. For example, on page 1 of our <i>Comments</i>, we argue: "It is important to understand that the bottom line for this industry is that in order for it to develop to its potential, which is the overarching goal of AB 1900, its legitimate costs have to be compensated. With the regulated gas utilities representing the only possible customer for a biomethane supplier, the ultimate source of the compensation will inevitably be the utility ratepayers regardless of how the costs are apportioned. In today's market environment, in which costs for natural gas supplies are cheap and expectations are for them to stay low for some time, the cost of biomethane supplies will undoubtedly exceed those of conventional sources."</p> <p>On page 2 of our <i>Comments</i>, we argue: "While market imperfections can increase the total compliance costs that are charged to ratepayers depending on how they are allocated, our greater concern is that if all of the D.14-01-034 compliance costs are apportioned to the biomethane suppliers, it will make the cost of biomethane look even higher</p>	Verified.

<p>of the industry. Without our strong efforts to convince the Commission of the need to go beyond its comfort zone and create a meaningful support program for biomethane, it would not have happened. The GPI made a substantial contribution to D.15-06-029 by demonstrating the need to create a support program for biomethane.</p>	<p>than it otherwise is relative to the cost of conventional gas supplies, and this perception, once created, could make it that much more difficult to successfully achieve the goals of AB 1900. Thus from a strategic perspective, it is important to try to avoid inflating the cost of renewable energy by loading it up with costs that conventional supplies are not burdened with.”</p> <p><i>GPI’s Comments on the Proposed Decision (PD), 6/1/15.</i></p> <p>Our <i>Comments</i> restate the case for providing support to the development of the biomethane industry in California, and endorse the creation of the program proposed in the PD: “On pages 28-32 of the PD the Commission describes and adopts a program that is aimed at enacting the provisions of Assembly Bill (AB) 1900 contained in § 399.24 of the Pub. Util. Code. ... In fact, the cost of interconnection facilities is a significant component of the total cost of developing a biomethane-production facility. The GPI strongly supports the cost-sharing program for interconnection facilities as proposed in the PD. It is true to the letter and the spirit of AB 1900, and it will benefit the ratepayers of the gas utilities.” [<i>Comments</i>, at 4.]</p> <p><i>Decision</i>, 6/16/15.</p> <p>The Decision’s rationale for adopting a program to promote biomethane is discussed on pages 28-29 of the Decision: “Originally, we were reluctant to consider cost subsidies or biomethane promotion issues in this phase of the proceeding. ...</p> <p>However, we are persuaded that the Commission may take steps in this phase of the proceeding to further fulfill the intent of AB 1900. As described</p>	
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	<p>below, this will consist of adopting a policy and program of providing monetary incentive to encourage potential biomethane producers to build and operate biomethane projects within California that interconnect with the utilities. Such an incentive will encourage biomethane producers to develop, construct, and operate such biomethane projects. At the same time, this incentive program will help offset the biomethane producers' costs of complying with D.14-01-034, while limiting the financial exposure of the utility ratepayers for such a program.</p> <p>This monetary incentive program is a variation of the recommendations of some of the biomethane proponents that utility ratepayers should bear some or all of the costs of interconnection."</p> <p>The Decision acknowledges GPI's contributions to making the case for providing assistance to the development of the biomethane industry on pages 11 and 13 of the Decision.</p>	
<b>D.15-06-010: Awards intervenor compensation to the GPI</b>		
<p><b>2. Appropriate Credit for Contributions to D.14-01-034</b></p> <p>D.15-06-010 awards intervenor compensation to the GPI for contributions to D.14-01-034, the Phase 1 Decision in this proceeding. In its 2/20/14 Request for Award, the GPI requested \$36,209. A 3/26/15 PD proposed awarding \$8,286. Based on the GPI's Comments on the PD, the award was increased to \$22,339. The GPI</p>	<p>GPI's <i>Comments on the PD</i>, 4/9/15.</p> <p>Our Comments presented a detailed case showing that the GPI's contributions to D.14-01-034 were both understated and undervalued in the 3/26/15 PD on our Claim for intervenor compensation. The final Decision agreed, and nearly tripled the amount awarded from what was proposed in the PD.</p>	<p>Green Power's comments on the proposed decision awarding intervenor compensation to Green Power did not substantially contribute to the proceeding. D.15-06-010 is not a decision on the issues that were litigated in the underlying rulemaking, but</p>

<p>made a substantial contribution to D.15-06-010 by convincing the Commission to nearly triple the amount awarded.</p>		<p>instead addresses the amount of compensation that Green Power should be compensated for its substantial contribution to the cost issues that were litigated. As such, the Intervenor Compensation statutes do not provide for compensation for work seeking to increase the amount of the Intervenor Compensation to be awarded. This denial is supported by the definition of “substantial contribution” in Pub. Util. Code § 1802(i) which provides that a substantial contribution is when the Commission in its decision “has adopted in whole or in part one or more factual contentions, legal contentions, or specific policy or procedural recommendations presented by the customer.” The Commission is not adopting any new contentions or policy or procedural recommendations in connection with the underlying biomethane issues.</p>
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		<p>In addition, Pub. Util. Code § 1801.3(d) provides that it is the Legislature's intent that "Intervenors be compensated for making a substantial contribution to proceedings of the Commission." As recognized in D.98-04-059 (79 CPUC2d 628, 649), the extent of a party's participation in its request for compensation "should reflect the scope established in the scoping memo ruling." Costs associated with participation on, and claimed contributions to, issues the Commission did not identify as within the scope of the proceeding will not be found reasonable and will, therefore, not be compensated. D.98-04-059 at 13. Accordingly, no Intervenor Compensation is awarded in connection with D.15-06-010.</p>
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**B. Duplication of Effort (§ 1801.3(f) and § 1802.5):**

C.	Intervenor's Assertion	CPUC Discussion
D. a. Was the Office of Ratepayer Advocates (ORA) a party to the proceeding? <sup>2</sup>	Yes	Verified
E. b. Were there other parties to the proceeding with positions similar to yours?	Yes	Verified
F. c. If so, provide name of other parties: California Association of Sanitation Agencies, Bioenergy Association of California, Waste Management, Coalition For Renewable Natural Gas, Consumer Federation of California, Southern California Gas Company, San Diego Gas & Electric Company, Pacific Gas and Electric Company, Southwest Gas Corporation.		Verified
G.		
<b>d. Intervenor's claim of non-duplication:</b>  This proceeding covers a wide variety of topics related to the injection of biomethane into natural-gas pipelines. The Green Power Institute coordinated its efforts in this proceeding with other parties in order to avoid duplication of effort, and added significantly to the outcome of the Commission's deliberations. In particular, Green Power regularly discussed the case with members of a loose coalition of parties calling themselves the biomethane parties. Some amount of duplication has occurred in this proceeding on all sides of contentious issues, but Green Power avoided duplication to the extent possible, and tried to minimize it where it was unavoidable.		Verified.

**PART III: REASONABLENESS OF REQUESTED COMPENSATION****A. General Claim of Reasonableness (§ 1801 and § 1806):**

a. Intervenor's claim of cost reasonableness:	CPUC Discussion
The GPI is providing, in Attachment 2, a listing of all of the pleadings we provided in this Proceeding, R.13-02-008 that are relevant to matters covered by this Claim, and a detailed breakdown of GPI staff time spent for work performed that was directly related to our substantial	Verified; compensation is not awarded for time spent in relation to

<sup>2</sup> The Division of Ratepayer Advocates was renamed the Office of Ratepayer Advocates effective September 26, 2013, pursuant to Senate Bill 96 (Budget Act of 2013: public resources), which was approved by the Governor on September 26, 2013.



<p>contributions to D.15-06-029 and D.15-06-010.</p> <p>The hours claimed herein in support of D.15-06-029 and D.15-06-010 are reasonable given the scope of the Proceeding, and the strong participation by the GPI. GPI staff maintained detailed contemporaneous time records indicating the number of hours devoted to the matters settled by these Decisions in this case. In preparing Attachment 2, Dr. Morris reviewed all of the recorded hours devoted to this proceeding, and included only those that were reasonable and contributory to the underlying tasks. For example, none of the hours relating to our Feb. 11, 2014, Petition for Modification are included, as the PFM was denied. As a result, the GPI submits that all of the hours included in the attachment are reasonable, and should be compensated in full.</p> <p>Dr. Morris is a renewable energy analyst and consultant with more than thirty years of diversified experience and accomplishments in the energy and environmental fields. He is a nationally recognized expert on biomass and renewable energy, climate change and greenhouse-gas emissions analysis, integrated resources planning, and analysis of the environmental impacts of electric power generation. Dr. Morris holds a BA in Natural Science from the University of Pennsylvania, an MSc in Biochemistry from the University of Toronto, and a PhD in Energy and Resources from the University of California, Berkeley.</p> <p>Dr. Morris has been actively involved in electric utility restructuring in California throughout the past two decades. He served as editor and facilitator for the Renewables Working Group to the Commission in 1996 during the original restructuring effort, consultant to the California Energy Commission Renewables Program Committee, consultant to the Governor's Office of Planning and Research on renewable energy policy during the energy crisis years, and has provided expert testimony in a variety of regulatory and legislative proceedings, as well as in civil litigation.</p> <p>D.98-04-059 states, on pgs. 33-34, "Participation must be productive in the sense that the costs of participation should bear a reasonable relationship to the benefits realized through such participation. ... At a minimum, when the benefits are intangible, the customer should present information sufficient to justify a Commission finding that the overall benefits of a customer's participation will exceed a customer's costs." This proceeding is concerned with allocating costs that result from the rules previously set in this proceeding that will enable biogas resources to be upgraded and injected into natural gas pipelines. Biogas is converted into electricity in California using small engines at existing installations. However, new installations for untapped sources of biogas have been stymied due to increasingly strict NOx emissions standards for small engines.</p>	<p>D.15-06-010.</p>
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<p>Biomethane injection has the potential to allow the beneficial use of biogas resources that currently cannot be permitted for use in small engines. If successful, the decisions in this proceeding have the potential to reduce the carbon intensity of pipeline gas, and to enable a host of currently unusable sources of biogas to enter the marketplace and be put to beneficial use. The value of these benefits overwhelms the cost of our participation in this proceeding.</p>					
<p><b>b. Reasonableness of hours claimed:</b></p> <p>The GPI made Significant Contributions to D.15-06-029 and D.15-06-010 by providing a series of Commission filings on the various topics that were under consideration in the Proceeding, and are covered by this Claim. Attachment 2 provides a detailed breakdown of the hours that were expended in making our Contributions. The hourly rates and costs claimed are reasonable and consistent with awards to other intervenors with comparable experience and expertise. The Commission should grant the GPI's claim in its entirety.</p>	<p>Reasonable as to hours associated with contribution(s) to D.15-06-029.</p>				
<p><b>c. Allocation of hours by issue:</b></p> <table> <tr> <td>1. Policy imperative to promote biomethane development</td><td>85%</td></tr> <tr> <td>2. Appropriate credit for contributions to D.14-01-034</td><td>15%</td></tr> </table>	1. Policy imperative to promote biomethane development	85%	2. Appropriate credit for contributions to D.14-01-034	15%	<p>15% disallowed for time spent preparing Comments on a proposed intervenor compensation decision in connection with compensation to D.14-01-034.</p>
1. Policy imperative to promote biomethane development	85%				
2. Appropriate credit for contributions to D.14-01-034	15%				

**B. Specific Claim:\***

CLAIMED						CPUC AWARD		
ATTORNEY, EXPERT, AND ADVOCATE FEES								
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Hours	Rate \$	Total \$
G. Morris	2014	23.5	\$270	D.15-06-058	\$6,345.00	23.5	\$270	\$6,345.00
G. Morris	2015	38.5	\$270	Res. ALJ-308	\$10,395.00	22	\$270	\$5,940.00
Subtotal: \$16,740.00						Subtotal: \$12,285.00		
INTERVENOR COMPENSATION CLAIM PREPARATION **								
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Hours	Rate	Total \$
G. Morris	2015	8	\$135	½ rate for 2015	\$1,080.00	8	\$135	\$1,080.00

**PROPOSED DECISION**

<b>Subtotal: \$1,080.00</b>				<b>Subtotal: \$1,080.00</b>
<b>COSTS</b>				
#	Item	Detail	Amount	Amount
	Postage	See Attachment 2	\$22.68 <sup>3</sup>	\$17.85
<b>Subtotal: \$22.68</b>				<b>Subtotal: \$17.85</b>
<b>TOTAL REQUEST: \$17,843.00</b>				<b>TOTAL AWARD: \$13,382.85</b>
<p><b>**We remind all intervenors that Commission staff may audit their records related to the award and that intervenors must make and retain adequate accounting and other documentation to support all claims for intervenor compensation. Intervenors' records should identify specific issues for which it seeks compensation, the actual time spent by each employee or consultant, the applicable hourly rates, fees paid to consultants and any other costs for which compensation was claimed. The records pertaining to an award of compensation shall be retained for at least three years from the date of the final decision making the award.</b></p> <p><b>**Travel and Reasonable Claim preparation time typically compensated at ½ of preparer's normal hourly rate</b></p>				
<b>ATTORNEY INFORMATION</b>				
<b>Attorney</b>		<b>Date Admitted to CA BAR<sup>4</sup></b>	<b>Member Number</b>	<b>Actions Affecting Eligibility (Yes/No?) If "Yes", attach explanation</b>
<b>No Attorneys Used</b>				

**C. Attachments Documenting Specific Claim and Comments on Part III:**

<b>Attachment or Comment #</b>	<b>Description/Comment</b>
1	Certificate of Service
2	List of issue areas and pleadings, time sheets, and detail on expenses

**D. CPUC Disallowances and Adjustments:**

<b>Item</b>	<b>Reason</b>
1. Disallowance for time spent on comments to D.15-06-010.	All time relating to comments on Green Power's pending Intervenor Compensation decision for contribution to D.14-01-034 are disallowed. A total of 16.5 hours from April 2015 are deducted from Morris' 2015 time.

<sup>3</sup> In Green Power's Request it rounded copying costs to \$23, when the actual total is \$22.68. We use the unrounded amount moving forward.

<sup>4</sup> This information may be obtained through the State Bar of California's website at <http://members.calbar.ca.gov/fal/MemberSearch/QuickSearch>.

2. Copying costs disallowed.	Copying costs claimed for April 9, 2015, are disallowed, as they are related to the comments Green Power filed on its pending intervenor compensation claim. As such, \$4.83 is deducted from the overall copying costs claimed.
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**PART IV: OPPOSITIONS AND COMMENTS**

<b>A. Opposition: Did any party oppose the Claim?</b>	No.
<b>B. Comment Period: Was the 30-day comment period waived (<i>see</i> Rule 14.6(c)(6))?</b>	Yes.

**FINDINGS OF FACT**

1. Green Power Institute has made a substantial contribution to D.15-06-029.
2. The requested hourly rates for Green Power's representatives are comparable to market rates paid to experts and advocates having comparable training and experience and offering similar services.
3. The claimed costs and expenses, as adjusted herein, are reasonable and commensurate with the work performed.
4. The total of reasonable compensation is \$13,382.85.

**CONCLUSIONS OF LAW**

1. No compensation should be awarded for work on the comments on the proposed decision which resulted in D.15-06-010 because that work does not relate to the underlying issues that were scoped in this rulemaking.
2. The Claim, with any adjustment set forth above, satisfies all requirements of Pub. Util. Code §§ 1801-1812.
3. The claim should be paid from the Intervenor Compensation Fund.
4. Comments on today's decision should be waived, and the decision should be made effective immediately.

**O R D E R**

1. The Green Power Institute shall be awarded \$13,382.85.
2. Within 30 days of the effective date of this decision, the California Public Utilities Commission's (Commission) Fiscal Office shall disburse the awarded compensation from the Commission's Intervenor Compensation Fund. Payment of the award shall include compound interest at the rate earned on prime, three-month non-financial commercial paper as reported in Federal Reserve Statistical Release H.15, beginning October 10, 2015, the 75<sup>th</sup> day after the filing of The Green Power Institute's request, and continuing until full payment is made.
3. The comment period for today's decision is waived.

This order is effective today.

Dated \_\_\_\_\_, at San Francisco, California.

**APPENDIX****Compensation Decision Summary Information**

<b>Compensation Decision:</b>		<b>Modifies Decision?</b>	No
<b>Contribution Decision(s):</b>	D1506029		
<b>Proceeding(s):</b>	R1302008		
<b>Author:</b>	ALJ Wong		
<b>Payer(s):</b>	Commission's Intervenor Compensation Fund		

**Intervenor Information**

<b>Intervenor</b>	<b>Claim Date</b>	<b>Amount Requested</b>	<b>Amount Awarded</b>	<b>Multiplier?</b>	<b>Reason Change/Disallowance</b>
Green Power Institute	7/27/2015	\$17,843.00	\$13,382.85	N/A	Disallowance for time spent in relation to Decision 15-06-010.

**Advocate Information**

<b>First Name</b>	<b>Last Name</b>	<b>Type</b>	<b>Intervenor</b>	<b>Hourly Fee Requested</b>	<b>Year Hourly Fee Requested</b>	<b>Hourly Fee Adopted</b>
Gregg	Morris	Expert	Green Power Institute	\$270	2014	\$270
Gregg	Morris	Expert	Green Power Institute	\$270	2015	\$270

**(END OF APPENDIX)**